

HOUSE BILL 458

By McDonald

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 221, to enact the "Drinking Water Access and Resources Planning Act of 2009."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 221, is amended by adding the following language as a new part:

§ 68-221-1401.

This part shall be known and may be cited as the "Drinking Water Access and Resources Planning Act of 2009".

§ 68-221-1402.

The purpose of this part is to establish a systematic planning process for the long-range management of water resources in this state to:

(1) Further the purpose of the Tennessee Safe Drinking Water Act of 1983, compiled in part 7 of this chapter, which provides that because the waters of the state are held in trust for the public that each citizen of this state has a right to both an adequate quantity and quality of drinking water;

(2) Provide public drinking water to the citizens of this state who do not presently have access to a public water supply in a manner which is cost effective and fair;

(3) Increase the cooperation and coordination by public water systems to make the most effective use of the state's water resources, to plan for future growth and to make cost-effective water line extensions to underserved and unserved areas in this state;

(4) Encourage the conservation of water both by public water systems and the public; and

(5) Efficiently use all federal, state and local funding available to improve the capacity of public water systems, to support projects that are cost-effective and environmentally sound and to make drinking water available to the citizens of this state.

§ 68-221-1403.

As used in this part, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of environment and conservation;

(2) "Covered water system" means a community public water system of a municipality, county, authority, utility district, or a private utility regulated by the Tennessee Regulatory Authority, except those serving rental units with fewer than one hundred (100) persons served;

(3) "Department" means the department of environment and conservation; and

(4) "Public water system" has the same meaning as under the Tennessee Safe Drinking Water Act of 1983, compiled in part 7 of this chapter.

§ 68-221-1404.

(a) In accordance with the schedule set by the commissioner, each covered water system shall prepare and submit to the department a system water plan that includes the following components:

(1) A water supply plan pursuant to § 68-221-1406;

(2) An emergency preparedness plan pursuant to § 68-221-1407; and

(3) A water conservation plan pursuant to § 68-221-1408.

(b) The department shall review each system water plan and approve a plan if it meets the requirements under this part or disapprove it. If the department disapproves a

system water plan, the department shall notify the covered water system of the deficiencies in the system water plan.

(c) Each covered water system shall commence implementation of the system water plan in accordance with its terms within twelve (12) months of receipt of written notification from the department that the plan complies with this part.

(d) Each covered water system shall review and revise its system water plan every five (5) years and resubmit its plan to the department for approval, unless exempted by the department. If any changes are made in the plan or in the implementation of the plan, the covered water system shall submit a report of such changes at least annually.

§ 68-221-1405.

The commissioner has the following powers:

- (1) To delineate the criteria and format for the plans required by this part;
- (2) To set the schedule for the submittal of system water plans;
- (3) To review and approve of or disapprove system water plans;
- (4) To gather information and to require the submission of data on usage of water resources by persons other than community water systems;
- (5) To delineate regions at risk for water shortages;
- (6) To develop regional plans for water supply;
- (7) To develop criteria and conditions for matching grants or loans for community water systems;
- (8) To provide technical assistance to the public water systems under this part;
- (9) To contract with the Tennessee Association of Utility Districts, the municipal technical advisory service or other appropriate agency to provide such technical assistance or to accomplish other purposes under this part;

(10) To promulgate rules to carry out the provisions of this part; and

(11) To issue administrative orders and assess civil penalties against violators of this part.

§ 68-221-1406.

The water supply plan shall include:

(1) Maps and a description of the covered water system, including its service area and geographic boundaries when applicable, normal and emergency sources, treatment systems, distribution lines, interconnections with other systems, number of customers broken down by residential and appropriate categories of commercial;

(2) Usage data, including the average daily and maximum monthly usage for the total system and for each source, including interconnections, and the maximum capacity of each source during worst case conditions with a description of circumstances under which any source is unable to meet demand for reasons of quantity or quality; and

(3) Estimates of future demand, five (5), fifteen (15) and thirty (30) years out, including plans for expansion into unserved areas, for improving service to underserved areas, for developing new sources, and for deriving additional capacity from current sources. These plans shall draw upon and be consistent with the municipal, county and regional growth plans required by other laws including, but not limited to, §§ 6-58-107, 13-3-301 and 13-4-201.

§ 68-221-1407.

The emergency preparedness plan shall include:

(1) Drought/emergency response stages delineating the triggers and the actions at the different stages;

(2) Plan of action including public notice and education, emergency supplies and actions to be taken in emergencies to provide water; and

(3) Contact information for individuals authorized to make decisions in emergencies.

§ 68-221-1408.

The water conservation plan shall include:

- (1) Actions to identify and reduce loss of water;
- (2) Analysis and adoption of rate structures that encourage efficient use; and
- (3) Development of alternatives to the use of potable water for purposes where it is not necessary, such as irrigation, re-use, recycling, or use of other water, including education of the public, plumbers, builders and other groups.

§ 68-221-1409.

(a) The drinking water access and resources fund, referred to in this part as “the fund,” is established as a separate account in the state treasury and shall be administered by the department.

(b) The fund shall be a dedicated fund, and all moneys in the fund shall be dedicated solely to providing financial assistance to public water systems for the construction or acquisition of water system improvement projects to accomplish the purposes set forth in this part.

(c) The financial assistance which may be provided to public water systems by the fund shall be limited to:

- (1) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, and that the fund will be credited with all repayments of principal and interest on all loans;
- (2) Making grants; provided that in so doing the impact of such programs on any loan programs is considered with the goal of making the most efficient and effective use of all financial resources; and

(3) Purchasing or guaranteeing, or purchasing insurance for, local or state obligations when the action would improve credit market access or reduce interest rates.

(d) The fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for its stated purposes.

(e) The department shall advise public water systems of the availability of the fund and how moneys may be obtained from the fund.

(f) The department may enter into any necessary or required agreements with all federal or state agencies or persons to carry out this section. The department is encouraged to work with federal agencies making grants or loans to public water systems so that the funds available through those agencies also further the purposes of this part to the greatest degree possible. All state agencies shall cooperate with the department and shall share information with it as appropriate to accomplish the purposes set out in this part.

(g) The department may establish, adopt and promulgate, in accordance with Uniform Administrative Procedures Act, compiled in title 4, chapter 5, rules and regulations that it deems necessary for the proper administration of the fund to accomplish the purposes of this part.

(h) The general assembly may appropriate funds to the department to carry out its functions under this part.

§ 68-221-1410.

Using the information submitted by the covered water systems under this part, information that the department has on the water resources of the state and other relevant information, the department shall develop regional plans for the provision of

drinking water to citizens of this state. Such regional plans shall consider the following factors:

- (1) Providing water to citizens cost-effectively;
- (2) Avoiding duplication of capacity so that water resources are used efficiently;
- (3) The geographic boundaries of existing public water systems;
- (4) The financial condition and strength of existing public water systems;
- (5) Using practices, including, but not limited to, those practices concerning selection of sources of water and methods of distributing water which minimize as much as possible the impact of public water systems on the environment;
- (6) Encouraging patterns of growth and development that are sustainable and consistent with good environmental stewardship;
- (7) Encouraging the best practices for conservation of water by public water systems and the public; and
- (8) Preparing for future drought conditions.

§ 68-221-1411.

(a) No public water system shall be required to join a region or conduct its business in accordance with a regional plan unless specifically identified by the department as being in significant non-compliance because of an inadequate water supply. Any grants and loans to public water systems from the department or the department of economic and community development may give preference to those water systems that are providing water in accordance with a regional plan or in accordance with some or all aspects of a regional plan as a condition for the receipt of such grants and loans. This includes, but is not limited to, authority for the department

of economic and community development to give such water systems an appropriate number of points as determined by the commissioner of economic and community development in any evaluation formula for the distribution of grants from the department of economic and community development for:

- (1) Community development block grants; and
- (2) The Tennessee FastTrack infrastructure development program.

(b) Effective January 1, 2011, the following grant programs shall be unavailable to those covered water systems which have not submitted their system water plans to the department as required by the part, and shall remain unavailable until such submission:

- (1) Community development block grants; and
- (2) The Tennessee FastTrack infrastructure development program.

§ 68-221-1412.

Nothing in this part shall be construed to affect the exclusive or prior right of a county, municipality, utility district or other public water system to provide water service to a geographic territory under state or federal law.

§ 68-221-1413.

The department shall submit an annual report to the governor and general assembly of its activities under this part.

SECTION 2. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2009, the public welfare requiring it.